

# HOUSE BILL No. 1838

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.5-7.

**Synopsis:** Fayette County CEDIT. Authorizes Fayette County to impose an additional county economic development income tax (CEDIT) rate of not more than 0.25% to pay the capital and operating costs of renovating the county courthouse and to pay the costs of economic development projects. Provides that revenues from the additional tax rate may be used to repay bonds issued or leases entered into for the courthouse.

**Effective:** Upon passage.

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**Hoffman, Pflum**

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January 23, 2003, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1838

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 6-3.5-7-5, AS AMENDED BY P.L.192-2002(ss),  
2       SECTION 121, IS AMENDED TO READ AS FOLLOWS  
3       [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in  
4       subsection (c), the county economic development income tax may be  
5       imposed on the adjusted gross income of county taxpayers. The entity  
6       that may impose the tax is:  
7               (1) the county income tax council (as defined in IC 6-3.5-6-1) if  
8               the county option income tax is in effect on January 1 of the year  
9               the county economic development income tax is imposed;  
10              (2) the county council if the county adjusted gross income tax is  
11              in effect on January 1 of the year the county economic  
12              development tax is imposed; or  
13              (3) the county income tax council or the county council,  
14              whichever acts first, for a county not covered by subdivision (1)  
15              or (2).  
16       To impose the county economic development income tax, a county  
17       income tax council shall use the procedures set forth in IC 6-3.5-6

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concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), (g), (k), ~~and (p)~~, **and (r)**, the county economic development income tax may be imposed at a rate of:

- (1) one-tenth percent (0.1%);
- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);
- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%);
- (6) four-tenths percent (0.4%);
- (7) forty-five hundredths percent (0.45%); or
- (8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), or (p), the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), ~~or (p)~~, **or (r)**, the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The \_\_\_\_\_ County \_\_\_\_\_ imposes the county economic development income tax on the county taxpayers of \_\_\_\_\_ County. The county economic development income tax is imposed at a rate of \_\_\_\_\_ percent (\_\_\_\_%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

- (1) county economic development income tax may be imposed at a rate of:

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1 (A) fifteen-hundredths percent (0.15%);  
 2 (B) two-tenths percent (0.2%); or  
 3 (C) twenty-five hundredths percent (0.25%); and  
 4 (2) county economic development income tax rate plus the county  
 5 option income tax rate that are in effect on January 1 of a year  
 6 may equal up to one and twenty-five hundredths percent (1.25%);  
 7 if the county income tax council makes a determination to impose rates  
 8 under this subsection and section 22 of this chapter.

9 (h) For a county having a population of more than forty-one  
 10 thousand (41,000) but less than forty-three thousand (43,000), except  
 11 as provided in subsection (p), the county economic development  
 12 income tax rate plus the county adjusted gross income tax rate that are  
 13 in effect on January 1 of a year may not exceed one and thirty-five  
 14 hundredths percent (1.35%) if the county has imposed the county  
 15 adjusted gross income tax at a rate of one and one-tenth percent (1.1%)  
 16 under IC 6-3.5-1.1-2.5.

17 (i) For a county having a population of more than thirteen thousand  
 18 five hundred (13,500) but less than fourteen thousand (14,000), except  
 19 as provided in subsection (p), the county economic development  
 20 income tax rate plus the county adjusted gross income tax rate that are  
 21 in effect on January 1 of a year may not exceed one and fifty-five  
 22 hundredths percent (1.55%).

23 (j) For a county having a population of more than seventy-one  
 24 thousand (71,000) but less than seventy-one thousand four hundred  
 25 (71,400), except as provided in subsection (p), the county economic  
 26 development income tax rate plus the county adjusted gross income tax  
 27 rate that are in effect on January 1 of a year may not exceed one and  
 28 five-tenths percent (1.5%).

29 (k) This subsection applies to a county having a population of more  
 30 than twenty-seven thousand four hundred (27,400) but less than  
 31 twenty-seven thousand five hundred (27,500). Except as provided in  
 32 subsection (p), in addition to the rates permitted under subsection (b):

33 (1) the county economic development income tax may be imposed  
 34 at a rate of twenty-five hundredths percent (0.25%); and

35 (2) the sum of the county economic development income tax rate  
 36 and the county adjusted gross income tax rate that are in effect on  
 37 January 1 of a year may not exceed one and five-tenths percent  
 38 (1.5%);

39 if the county council makes a determination to impose rates under this  
 40 subsection and section 22.5 of this chapter.

41 (l) For a county having a population of more than twenty-nine  
 42 thousand (29,000) but less than thirty thousand (30,000), except as

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provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For:

(1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); or

(2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900); except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and:

(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or

(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(p) In addition:

(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and

(2) the:

(A) county economic development income tax; and

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1 (B) county option income tax or county adjusted gross income  
 2 tax;  
 3 may be imposed at combined rates that exceed by not more than  
 4 twenty-five hundredths percent (0.25%) the maximum combined  
 5 rates that would otherwise apply under this section.

6 However, the additional rate imposed under this subsection may not  
 7 exceed the amount necessary to mitigate the increased ad valorem  
 8 property taxes on homesteads (as defined in IC 6-1.1-20.9-1) resulting  
 9 from the deduction of the assessed value of inventory in the county  
 10 under IC 6-1.1-12-41 or IC 6-1.1-12-42.

11 (q) If the county economic development income tax is imposed as  
 12 authorized under subsection (p) at a rate that exceeds the maximum  
 13 rate that would otherwise apply under this section, the certified  
 14 distribution must be used for the purpose provided in section 25(e) or  
 15 26 of this chapter to the extent that the certified distribution results  
 16 from the difference between:

- 17 (1) the actual county economic development tax rate; and  
 18 (2) the maximum rate that would otherwise apply under this  
 19 section.

20 **(r) This subsection applies only to a county having a population**  
 21 **of more than twenty-five thousand five hundred (25,500) but less**  
 22 **than twenty-six thousand five hundred (26,500). Except as**  
 23 **provided in subsection (p), in addition to the rates permitted by**  
 24 **subsection (b), the:**

- 25 **(1) county economic development income tax may be imposed**  
 26 **at a rate of twenty-five hundredths percent (0.25%); and**  
 27 **(2) county economic development income tax rate plus the**  
 28 **county option income tax rate that are in effect on January 1**  
 29 **of a year may equal up to one and twenty-five hundredths**  
 30 **percent (1.25%);**

31 **if the county income tax council makes a determination to impose**  
 32 **rates under this subsection and section 27 of this chapter.**

33 SECTION 2. IC 6-3.5-7-12, AS AMENDED BY P.L.192-2002(ss),  
 34 SECTION 122, IS AMENDED TO READ AS FOLLOWS  
 35 [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Except as provided in  
 36 sections 23, 25, ~~and 26~~, **and 27** of this chapter, the county auditor shall  
 37 distribute in the manner specified in this section the certified  
 38 distribution to the county.

39 (b) Except as provided in subsections (c) and (h) and sections 15  
 40 and 25 of this chapter, the amount of the certified distribution that the  
 41 county and each city or town in a county is entitled to receive during  
 42 May and November of each year equals the product of the following:

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(1) The amount of the certified distribution for that month;  
multiplied by

(2) A fraction. The numerator of the fraction equals the sum of the  
following:

(A) Total property taxes that are first due and payable to the  
county, city, or town during the calendar year in which the  
month falls; plus

(B) For a county, an amount equal to:

(i) the property taxes imposed by the county in 1999 for the  
county's welfare fund and welfare administration fund; plus

(ii) after December 31, 2004, the greater of zero (0) or the  
difference between the county hospital care for the indigent  
property tax levy imposed by the county in 2004, adjusted  
each year after 2004 by the statewide average assessed value  
growth quotient described in IC 12-16-14-3, minus the  
current uninsured parents program property tax levy  
imposed by the county.

The denominator of the fraction equals the sum of the total property  
taxes that are first due and payable to the county and all cities and  
towns of the county during the calendar year in which the month falls,  
plus an amount equal to the property taxes imposed by the county in  
1999 for the county's welfare fund and welfare administration fund, and  
after December 31, 2004, the greater of zero (0) or the difference  
between the county hospital care for the indigent property tax levy  
imposed by the county in 2004, adjusted each year after 2004 by the  
statewide average assessed value growth quotient described in  
IC 12-16-14-3, minus the current uninsured parents program property  
tax levy imposed by the county.

(c) This subsection applies to a county council or county income tax  
council that imposes a tax under this chapter after June 1, 1992. The  
body imposing the tax may adopt an ordinance before July 1 of a year  
to provide for the distribution of certified distributions under this  
subsection instead of a distribution under subsection (b). The following  
apply if an ordinance is adopted under this subsection:

(1) The ordinance is effective January 1 of the following year.

(2) Except as provided in sections 25 and 26 of this chapter, the  
amount of the certified distribution that the county and each city  
and town in the county is entitled to receive during May and  
November of each year equals the product of:

(A) the amount of the certified distribution for the month;  
multiplied by

(B) a fraction. For a city or town, the numerator of the fraction

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1 equals the population of the city or the town. For a county, the  
 2 numerator of the fraction equals the population of the part of  
 3 the county that is not located in a city or town. The  
 4 denominator of the fraction equals the sum of the population  
 5 of all cities and towns located in the county and the population  
 6 of the part of the county that is not located in a city or town.

7 (3) The ordinance may be made irrevocable for the duration of  
 8 specified lease rental or debt service payments.

9 (d) The body imposing the tax may not adopt an ordinance under  
 10 subsection (c) if, before the adoption of the proposed ordinance, any of  
 11 the following have pledged the county economic development income  
 12 tax for any purpose permitted by IC 5-1-14 or any other statute:

13 (1) The county.

14 (2) A city or town in the county.

15 (3) A commission, a board, a department, or an authority that is  
 16 authorized by statute to pledge the county economic development  
 17 income tax.

18 (e) The department of local government finance shall provide each  
 19 county auditor with the fractional amount of the certified distribution  
 20 that the county and each city or town in the county is entitled to receive  
 21 under this section.

22 (f) Money received by a county, city, or town under this section  
 23 shall be deposited in the unit's economic development income tax fund.

24 (g) Except as provided in subsection (b)(2)(B), in determining the  
 25 fractional amount of the certified distribution the county and its cities  
 26 and towns are entitled to receive under subsection (b) during a calendar  
 27 year, the department of local government finance shall consider only  
 28 property taxes imposed on tangible property subject to assessment in  
 29 that county.

30 (h) In a county having a consolidated city, only the consolidated city  
 31 is entitled to the certified distribution, subject to the requirements of  
 32 sections 15, 25, and 26 of this chapter.

33 SECTION 3. IC 6-3.5-7-13.1, AS AMENDED BY  
 34 P.L.192-2002(ss), SECTION 123, IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.1. (a) The fiscal  
 36 officer of each county, city, or town for a county in which the county  
 37 economic development tax is imposed shall establish an economic  
 38 development income tax fund. Except as provided in sections 23, 25,  
 39 **and 26, and 27** of this chapter, the revenue received by a county, city,  
 40 or town under this chapter shall be deposited in the unit's economic  
 41 development income tax fund.

42 (b) Except as provided in sections 15, 23, 25, ~~and 26,~~ **and 27** of this

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chapter, revenues from the county economic development income tax may be used as follows:

(1) By a county, city, or town for economic development projects, for paying, notwithstanding any other law, under a written agreement all or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project, for the retirement of bonds under section 14 of this chapter for economic development projects, for leases under section 21 of this chapter, or for leases or bonds entered into or issued prior to the date the economic development income tax was imposed if the purpose of the lease or bonds would have qualified as a purpose under this chapter at the time the lease was entered into or the bonds were issued.

(2) By a county, city, or town for:

(A) the construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;

(B) the retirement of bonds issued under any provision of Indiana law for a capital project;

(C) the payment of lease rentals under any statute for a capital project;

(D) contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects;

(E) operating expenses of a governmental entity that plans or implements economic development projects;

(F) to the extent not otherwise allowed under this chapter, funding substance removal or remedial action in a designated unit; or

(G) funding of a revolving fund established under IC 5-1-14-14.

(c) As used in this section, an economic development project is any project that:

(1) the county, city, or town determines will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the unit; or

(C) retain or expand a significant business enterprise within the unit; and

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(2) involves an expenditure for:

- (A) the acquisition of land;
- (B) interests in land;
- (C) site improvements;
- (D) infrastructure improvements;
- (E) buildings;
- (F) structures;
- (G) rehabilitation, renovation, and enlargement of buildings and structures;
- (H) machinery;
- (I) equipment;
- (J) furnishings;
- (K) facilities;
- (L) administrative expenses associated with such a project, including contract payments authorized under subsection (b)(2)(D);
- (M) operating expenses authorized under subsection (b)(2)(E); or
- (N) to the extent not otherwise allowed under this chapter, substance removal or remedial action in a designated unit; or any combination of these.

SECTION 4. IC 6-3.5-7-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 27. (a) This section applies to a county having a population of more than twenty-five thousand five hundred (25,500) but less than twenty-six thousand five hundred (26,500). A county described in this subsection possesses unique fiscal challenges in financing, renovating, equipping, and operating the county courthouse because the county consistently has one (1) of the highest unemployment rates in Indiana.**

**(b) In addition to actions authorized by section 5 of this chapter, a county income tax council may, using the procedures set forth in this chapter, adopt an ordinance to impose an additional county economic development income tax on the adjusted gross income of county taxpayers. The ordinance imposing the additional tax must include a finding that revenues from the additional tax are needed to pay the costs of:**

- (1) financing, renovating, equipping, and operating the county courthouse;**
- (2) repaying any bonds issued, or leases entered into, for renovating, equipping, and operating the county courthouse; and**



1 (3) economic development projects described in the county's  
2 capital improvement plan.

3 (c) The tax rate imposed under this section may not exceed  
4 twenty-five hundredths percent (0.25%).

5 (d) If the county income tax council adopts an ordinance to  
6 impose an additional tax under this section, the county treasurer  
7 shall establish a county courthouse revenue fund to be used only  
8 for the purposes described in subsection (b)(1) and (b)(2). The  
9 amount of county economic development income tax revenues  
10 derived from the tax rate imposed under this section that are  
11 necessary to pay the costs described in subsection (b)(1) and (b)(2)  
12 shall be deposited into the county courthouse revenue fund before  
13 a certified distribution is made under section 12 of this chapter.  
14 The remainder shall be deposited into the economic development  
15 income tax funds of the county's units.

16 (e) County economic development income tax revenues derived  
17 from the tax rate imposed under this section may not be used for  
18 purposes other than those described in this section.

19 (f) County economic development income tax revenues derived  
20 from the tax rate imposed under this section that are deposited into  
21 the county courthouse revenue fund may not be considered by the  
22 department of local government finance in determining the  
23 county's ad valorem property tax levy for an ensuing calendar year  
24 under IC 6-1.1-18.5.

25 (g) Notwithstanding section 5 of this chapter, an ordinance may  
26 be adopted under this section at any time. If the ordinance is  
27 adopted before April 1 of a year, a tax rate imposed under this  
28 section takes effect July 1 of that year. If the ordinance is adopted  
29 after March 31 of a year, a tax rate imposed under this section  
30 takes effect on the January 1 immediately following adoption of the  
31 ordinance.

32 (h) Notwithstanding any other law, funds accumulated from the  
33 county economic development income tax imposed under this  
34 section and deposited into the county courthouse revenue fund or  
35 any other revenues of the county may be deposited into a  
36 nonreverting fund of the county to be used for operating costs of  
37 the courthouse. Amounts in the county nonreverting fund may not  
38 be used by the department of local government finance to reduce  
39 the county's ad valorem property tax levy for an ensuing calendar  
40 year under IC 6-1.1-18.5.

41 SECTION 5. An emergency is declared for this act.



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